

Senate Engrossed

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-ninth Legislature  
First Special Session  
2009

CHAPTER 5

## **SENATE BILL 1005**

AN ACT

AMENDING SECTIONS 12-267 AND 13-901, ARIZONA REVISED STATUTES; RELATING TO  
CRIMINAL JUSTICE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-267, Arizona Revised Statutes, is amended to  
3 read:

4 12-267. Adult probation services fund; accounts; expenditure  
5 plan; use

6 A. The board of supervisors shall designate a chief fiscal officer who  
7 shall establish and administer an adult probation services fund consisting  
8 of:

9 1. County general fund appropriations for adult probation.

10 2. State appropriations for adult probation including:

11 (a) Monies for adult probation officers authorized by article 6 of  
12 this chapter.

13 (b) Monies for state aid for adult probation services authorized by  
14 this article.

15 (c) Monies for adult community punishment programs established  
16 pursuant to article 11 of this chapter.

17 (d) Monies for adult intensive probation pursuant to title 13,  
18 chapter 9.

19 (e) Monies received pursuant to section 12-270 that each county shall  
20 use for the following:

21 (i) Increasing the availability of substance abuse treatment programs  
22 for probationers.

23 (ii) Increasing the availability of risk reduction programs and  
24 interventions for probationers.

25 (iii) Grants to nonprofit victim services organizations to partner  
26 with the probation department and the court to assist victims and increase  
27 the amount of restitution collected from probationers.

28 3. Probation fees collected pursuant to section 13-901 and section  
29 13-902, subsection G.

30 4. Federal monies provided for adult probation.

31 5. Adult probation monies from any other source.

32 B. The chief fiscal officer shall establish and maintain separate  
33 accounts in the fund showing receipts and expenditures of monies from each  
34 source listed in subsection A of this section. The presiding judge of the  
35 superior court shall annually present to the board of supervisors for  
36 approval a detailed expenditure plan for the adult probation services fund  
37 accounts. Any modifications to the expenditure plan affecting state  
38 appropriations shall be made in accordance with the rules and procedures  
39 established by the supreme court. Any modifications to the expenditure plan  
40 affecting county appropriated funds shall be made in accordance with the  
41 policies established by the county. The chief fiscal officer shall disburse  
42 monies from the fund accounts only at the direction of the presiding judge of  
43 the superior court. The chief fiscal officer of each county, on or before  
44 August 31 of each year for the preceding fiscal year, shall submit an annual

1 report to the supreme court showing the total amount of receipts and  
2 expenditures in each account of the adult probation services fund.

3 C. The state monies in the adult probation services fund, and  
4 probation fees collected pursuant to section 13-901 and section 13-902,  
5 subsection G, shall be used in accordance with guidelines established by the  
6 supreme court or the granting authority.

7 D. State monies expended from the adult probation services fund shall  
8 be used to supplement, not supplant, county appropriations for the superior  
9 court adult probation department.

10 E. Monies in the adult probation services fund shall be used to pay  
11 the annual assessment on member states of the interstate compact for the  
12 supervision of adult offenders established in section 31-467, article X,  
13 subsection B.

14 F. County monies in the adult probation services fund shall be used in  
15 accordance with the fiscal policies and procedures established by the board  
16 of supervisors.

17 G. The administrative office of the courts shall periodically charge  
18 each local probation fees account an amount established annually by the  
19 supreme court to cover a proportional share of the cost of monitoring devices  
20 required pursuant to section 13-902, subsection G consistent with guidelines  
21 established to implement section 13-902, subsection G.

22 H. THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL CHARGE ANNUALLY THE  
23 LOCAL PROBATION FEES ACCOUNT OF EACH COUNTY AN AMOUNT THAT IS ESTABLISHED  
24 ANNUALLY BY THE ADMINISTRATIVE OFFICE OF THE COURTS TO REFLECT EACH COUNTY'S  
25 PORTION OF THE SUPERIOR COURT RISK MANAGEMENT PREMIUM THAT IS ALLOCATED TO  
26 THE JUDICIARY.

27 Sec. 2. Section 13-901, Arizona Revised Statutes, is amended to read:

28 13-901. Probation

29 A. If a person who has been convicted of an offense is eligible for  
30 probation, the court may suspend the imposition or execution of sentence and,  
31 if so, shall without delay place the person on intensive probation  
32 supervision pursuant to section 13-913 or supervised or unsupervised  
33 probation on such terms and conditions as the law requires and the court  
34 deems appropriate, including participation in any programs authorized in  
35 title 12, chapter 2, article 11. If a person is not eligible for probation,  
36 imposition or execution of sentence shall not be suspended or delayed. If  
37 the court imposes probation, it may also impose a fine as authorized by  
38 chapter 8 of this title. If probation is granted the court shall impose a  
39 condition that the person waive extradition for any probation revocation  
40 procedures and it shall order restitution pursuant to section 13-603,  
41 subsection C where there is a victim who has suffered economic loss. When  
42 granting probation to an adult the court, as a condition of probation, shall  
43 assess a monthly fee of not less than ~~fifty~~ SIXTY-FIVE dollars unless, after  
44 determining the inability of the probationer to pay the fee, the court  
45 assesses a lesser fee. In justice and municipal courts the fee shall only be

1 assessed when the person is placed on supervised probation. For persons  
2 placed on probation in the superior court, the fee shall be paid to the clerk  
3 of the superior court and the clerk of the court shall pay all monies  
4 collected from this fee to the county treasurer for deposit in the adult  
5 probation services fund established by section 12-267. For persons placed on  
6 supervised probation in the justice court, the fee shall be paid to the  
7 justice court and the justice court shall transmit all of the monies to the  
8 county treasurer for deposit in the adult probation services fund established  
9 by section 12-267. For persons placed on supervised probation in the  
10 municipal court, the fee shall be paid to the municipal court. The municipal  
11 court shall transmit all of the monies to the city treasurer who shall  
12 transmit the monies to the county treasurer for deposit in the adult  
13 probation services fund established by section 12-267. Any amount greater  
14 ~~than forty dollars of the fee assessed pursuant to this subsection shall only~~  
15 be used to supplement monies ~~currently~~ used for the salaries of adult  
16 probation and surveillance officers and for support of programs and services  
17 of the superior court adult probation departments.

18 B. The period of probation shall be determined according to section  
19 13-902, except that if a person is released pursuant to section 31-233,  
20 subsection B and community supervision is waived pursuant to section 13-603,  
21 subsection K, the court shall extend the period of probation by the amount of  
22 time the director of the state department of corrections approves for the  
23 inmate's temporary release.

24 C. The court, in its discretion, may issue a warrant for the rearrest  
25 of the defendant and may modify or add to the conditions or, if the defendant  
26 commits an additional offense or violates a condition, may revoke probation  
27 in accordance with the rules of criminal procedure at any time before the  
28 expiration or termination of the period of probation. If the court revokes  
29 the defendant's probation and the defendant is serving more than one  
30 probationary term concurrently, the court may sentence the person to terms of  
31 imprisonment to be served consecutively.

32 D. At any time during the probationary term of the person released on  
33 probation, any probation officer, without warrant or other process and at any  
34 time until the final disposition of the case, may rearrest any person and  
35 bring the person before the court.

36 E. The court, on its own initiative or on application of the  
37 probationer, after notice and an opportunity to be heard for the prosecuting  
38 attorney and, on request, the victim, may terminate the period of probation  
39 or intensive probation and discharge the defendant at a time earlier than  
40 that originally imposed if in the court's opinion the ends of justice will be  
41 served and if the conduct of the defendant on probation warrants it.

1 F. When granting probation the court may require that the defendant be  
2 imprisoned in the county jail at whatever time or intervals, consecutive or  
3 nonconsecutive, the court shall determine, within the period of probation, as  
4 long as the period actually spent in confinement does not exceed one year or  
5 the maximum period of imprisonment permitted under chapter 7 of this title,  
6 whichever is the shorter.

7 G. If restitution is made a condition of probation, the court shall  
8 fix the amount of restitution and the manner of performance pursuant to  
9 chapter 8 of this title.

10 H. When granting probation, the court shall set forth at the time of  
11 sentencing and on the record the factual and legal reasons in support of each  
12 sentence.

13 I. If the defendant meets the criteria set forth in section 13-901.01  
14 or 13-3422, the court may place the defendant on probation pursuant to either  
15 section. If a defendant is placed on probation pursuant to section 13-901.01  
16 or 13-3422, the court may impose any term of probation that is authorized  
17 pursuant to this section and that is not in violation of section 13-901.01.

18 Sec. 3. Conforming legislation

19 The legislative council staff shall prepare proposed legislation  
20 conforming the Arizona Revised Statutes to the provisions of this act for  
21 consideration in the forty-ninth legislature, first regular session.

APPROVED BY THE GOVERNOR JANUARY 31, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 2, 2009.